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In re Application of NAKAMURA :
U.S. Application No.: 09/509,968 :
Int. Application No.: PCT/JP99/04226 :
Int. Filing Date: 05 August 1999 :
Priority Date: 06 August 1998 :
Attorney Docket No.: 49774.20002.00 :
For: GAME APPARATUS AND :
COMMUNICATION GAME SYSTEM :

DECISION

This is in response to applicant's "Renewed Petition Under 37 C.F.R. § 1.137(b) and Petition Under 37 C.F.R. § 1.182" filed 17 October 2001.

BACKGROUND

On 05 August 1999, applicant filed international application PCT/JP99/04226, which claimed priority of an earlier Japan application filed 06 August 1998. A copy of the international application was communicated to the USPTO from the International Bureau on 15 February 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 06 April 2000.

On 04 April 2000, applicant filed national stage papers with the United States Designated/Elected Office (DO/EO/US) including, *inter alia*, the requisite basic national fee.

On 12 June 2000, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration had not been received.

On 17 April 2001, applicant filed a petition under 37 CFR 1.137(b) along with an executed declaration and a petition to correct the inventor's name.

On 16 July 2001, this Office mailed a decision dismissing the 17 April 2001 petitions because of a discrepancy between the inventor's name listed in the declaration and that listed in the international application.

On 17 October 2001, applicant filed the present renewed petition under 37 CFR 1.137(b) and the present petition under 37 CFR 1.182.

DISCUSSION

I. Petition under 37 CFR 1.137(b)

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

Applicant has previously satisfied items (2), (3), and (4).

With regard to item (1), as discussed in §II below, the declaration filed 17 April 2001 is not acceptable at the present time.

II. Petition to Correct the Inventor's Name

The given name of the inventor is listed in the international application as "Takayuki" while the given name is listed in the declaration as "Takashi". As set forth in the 16 July 2001 decision, a proper petition under 37 CFR 1.182 must include statements from the inventor and the persons having firsthand knowledge of the error setting forth the specific circumstances as to how and when the error was made and discovered and setting forth that the mistake was an inadvertent error without deceptive intent.

In the present case, the renewed petition states that the mistake was due to a translation error. Applicant has supplied an affidavit from Yasuo Yajima, the person with apparent firsthand knowledge of the error. However, Yajima's affidavit does not specifically state that the mistake was an inadvertent error without deceptive intent. Furthermore, applicant has not provided a statement from the inventor.


CONCLUSION

For the reasons set forth in §I above, the renewed petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

For the reasons set forth in §II above, the petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

If reconsideration on the merits of this decision is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b) and 37 CFR 1.182" and must include the appropriate statements as discussed above.

Please direct further correspondence with respect to this matter to the Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the PCT Legal Office.


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